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Authentication of documents: Apostilles

By Lynne R. Ostfeld

Certain international transactions require a legalization of documents so that the receiving entity in a foreign country can rely on the validity of the document and the process which produced it. An example would be a will for an American who died in the United States leaving a bank account in Monaco.

Traditionally, this would require the involvement of a number of individuals in both the home and foreign country, including consular officials in both countries.

For many years another means has been available to accomplish this—the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, or Apostille Convention.

This was developed through the intergovernmental organization the Hague Conference on Private International Law (www.hcch.net).

Apostilles are only authorized for documents in one country which is a party to the Apostille Convention and that are to be used in another country which is also a party to the Convention. A country does not have to be a member of the Hague Conference to be a party to the Apostille Convention. The Apostille is put only on an original document.

This Convention applies to public documents, essentially of an administrative nature, such as birth, marriage and death certificates, a judgment, extracts from public records, and documents issued by a notary in a civil law country.

An Apostille is only used to certify the origin of a public document for use in another country, which is a member of the Convention. It certifies the authenticity of the signature or seal of the person or entity responsible for the document. It does not certify the content of the document.


Apostilles are not grants of additional authority.

The Convention does not apply to documents executed by members of the diplomatic or consular corps nor certain commercial or customs operations.

Currently the Hague Conference is conducting a pilot project to develop procedures for the issuance and use of electronic

Apostilles, or e-Apostilles. The intent is to make the issuance one of ease and low cost while also ensuring that the Apostilles issued are free of fraud.

In Illinois, an Apostille is used to certify the validity of a document done by an Illinois notary public, county clerk, circuit clerk or local registrar. It is obtained for a small fee from the Illinois Secretary of State. The Apostille applied by the Secretary of State's Index Department certifies that the official who signs a document is authorized to do so.

In Illinois, an attorney needing to obtain an Apostille on a document, for foreign use, can take it to the Secretary of State's office, in Chicago or Springfield, or submit it by one of several commercial mail services. More detailed information about how to apply for an Apostille and obtain it are available at the Secretary of State's Web site (http://www.cyberdriveillinois.com/publications/pdf_publications/i177.pdf ). ■

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